

On pages 2-4 of the Office Action, the Examiner rejects claims 1, 2 and 4-21 under 35 U.S.C. §103 (a) as being obvious from the teaching of the Labor Server™ Illustration (hereinafter the "Illustration") in view of the teaching of United States Patent Published Application No. 2004/0222179 A1 by Garcia (hereinafter the Garcia application).

The Applicants respectfully disagree with this rejection because claim 1 is directed to a fixture carrier, which as stated in subparagraph (a)(ii) of that claim, comprises at least one top connection of the top crossbar and at least one bottom connection of the bottom crossbar are adjustable to permit adjustment of the horizontal distance between uprights. The Illustration includes a structure with a steel plate welded to the top and a steel plate welded to the bottom of two uprights to provide, as stated in the Illustration, a rigid one-piece pre-assembled steel construction. While the Garcia application is directed to a modular rack system, which does have adjustable horizontal members, the Illustration teaches away from such a feature because such a feature would not provide a rigid one-piece pre-assembled steel construction. Additionally, as stated as a feature of the design in the Illustration, the steel plate (extending between the two uprights) is welded to the uprights. Therefore, it is clear that the Illustration neither teaches nor suggests horizontally adjustable top and bottom crossbars and, furthermore, as a result, it is improper to combine the teaching of the Garcia application to arrive at the subject invention. To do so would defeat the intentional construction of the design in the Illustration to provide a rigid one-piece pre-assembled steel construction. Additionally, the horizontal adjustability of the design in the Illustration is provided by laterally adjustable brackets which may, depending upon the location of the individual brackets, introduce offset loads to each bracket and excessive shear forces upon the bolts used for these brackets. For these reasons, independent claim 1 is not believed to be obvious from the teaching of the Illustration in view of the teaching of the Garcia application.

Additionally, dependent claim 15 further states that the uprights and the crossbars of the frame form a parallelogram with pivotable connections such that the frame may be rotated for the bottom portions of each upright to accommodate a sloped floor. Such a feature is neither taught nor suggested by either the Illustration or the Garcia application.

By way of their dependence upon what is believed to be patentably distinct independent claim 1, dependent claims 2-18 are themselves believed to be patentably distinct over the prior art of record. Furthermore, for reasons just discussed, dependent claim 15 is

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believed to be patentably distinct over the prior art of record, independent of the patentability of independent claim 1. This same argument applies for claim 16 which depends from claim 15.

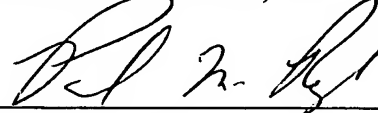
Claim 19, subparagraph (a) (ii) is also directed to a fixture carrier having at least one top connection at the top crossbar and at least one bottom connection at the bottom crossbar which are adjustable to permit adjustment of the horizontal distance between uprights. For that reason, the same argument presented in support of the patentability of independent claim 1 also applies to claim 19. By way of its dependence upon what is believed to be patentably distinct independent claim 19, dependent claim 20 itself is believed to be patentability distinct over the prior art of record.

Claim 21 is directed to a method of assembling a fixture carrier, wherein the carrier has a top crossbar and a bottom crossbar and wherein the top crossbar is adjustably connected at one end to the top region of one upright and connected to the other end of the top region of the other upright. The method comprises the steps of positioning one upright a predetermined distance from the other upright. Therefore, claim 21 is directed to horizontally adjusting the uprights relative to one another and, as previously discussed, this feature is neither taught nor suggested by the Illustration or by the Garcia application. For that reason, independent claim 21 is believed to be patentably distinct over the prior art of record.

Reconsideration of claims 1-14 and 17-21 and allowance of claims 1-21 are respectfully requested.

Respectfully submitted,

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